

REMARKS

In the Restriction Requirement mailed January 7, 2009, the Examiner has restricted the claims to one of the following inventions under 35 U.S.C. 121:

The species are as follows:

1 – A specific calcium-containing ceramic particle. The species were given in claims 25-30.

1A – If a calcium-phosphate particle is elected, the molar Ca/P relationship must be disclosed and the claims readable on the relationship identified.

1B – For any calcium-containing particle elected the following properties readable on the election must be identified:

- a) Pore size in claims 7 or 8
- b) Bulk density in claims 12 or 13
- c) Jarring density in claims 15 or 16
- d) Average diameter in claims 18-20 or a specific disclosed combination in claim 21

2 – A specific hydrogel or substance which can be swelled into a hydrogel consisting of the species in claims 36-39, 43

2A – For any hydrogel elected the following properties readable on the election must be identified:

- a) Water content in claims 44 or 45
- b) Molecular weight in claims 41, 42, 46, 47 or 48
- c) Weight relationship A/B in claims 51, 52, 53, 54, 55 or 56

Applicant elects species 1 with traverse because the Examiner's restriction does not appear to comport with what has been claimed. What is claimed herein is not a "calcium-phosphate particle" or a "specific hydrogel" but a "kneadable and moldable bone-replacement material" that consists of "calcium-containing ceramic particles" and "a hydrogel."

There are no claims directed only to either a "specific hydrogel" or "a calcium-phosphate particle." Applicant has amended claim 1, and claims dependent upon claims 1 to include particular features of particle components of the kneadable and moldable bone-replacement

RESPONSE TO RESTRICTION REQUIREMENT

Serial Number:10/510,028

Filing Date: December 14, 2004

Title: KNEADABLE, PLIABLE BONE REPLACEMENT MATERIAL

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Dkt: 2579.011US1

material. These claims are the following: 1, 2, 3, 4-6, 9, 10, 17, 21, 26, 28-56. It is believed that these claims address what the Examiner is referring to as a "species."

Applicants respectfully cancel claims 7, 8, 11, 12, 13, 14, 15, 16, 18-20, 22-25, and 27 without prejudice or disclaimer, and reserves the right to reintroduce them in one or more Divisional applications at a later date.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at (612) 373-6976 to facilitate prosecution of this application.

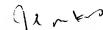
If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date 28 January 2009

By

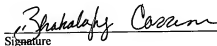


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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 29 day of January, 2009.

Zhakalazky M. Carrion

Name


Signature